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NO FEE – GOV'T CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

MARIA GUADALUPE CUEVAS aka MARIA
GUADALUPE CORDERO, an individual; DAVID
REY CUEVAS aka DAVID REY CUEVAS
TENORIO, an individual; DAVID CORDERO
CUEVAS aka DAVID CUEVAS CORDERO, an
individual; and DOES 1 through 50, inclusive,

Defendants.

Case No.:

18STCV01240

COMPLAINT FOR ABATEMENT
AND INJUNCTION

[HEALTH & SAFETY CODE
SECTION 11570, ET SEQ.]

[Unlimited Action]

1 PLAINTIFF, THE PEOPLE OF THE STATE OF CALIFORNIA, alleges as follows:

2 I. INTRODUCTION

3 1. This action ("Action") is brought and prosecuted by Plaintiff the People of the
4 State of California ("Plaintiff"), for the purpose of abating, preventing, and enjoining a narcotics-
5 related public nuisance that exists at a duplex located in South Los Angeles with an address
6 commonly known as 909 – 909 ½ W. 77th Street, Los Angeles, CA 90044 (the "Property").
7 The Action is brought pursuant to the Narcotics Abatement Law ("NAL"), California Health and
8 Safety Code section 11570, *et seq.*

9 2. There are several generations of the Cuevas family who, among others, reside at
10 the Property: Defendant David Rey Cuevas AKA David Rey Cuevas Tenorio ("Defendant
11 Cuevas Sr.") lives in a shed in the backyard, his son Defendant David Cordero Cuevas AKA
12 David Cuevas Cordero ("Defendant Cuevas Jr.") lives in the front residence of the Property at
13 909 W. 77th Street, and his adult granddaughter who is also Defendant Cuevas Jr.'s daughter
14 lives in the residence to the rear of the Property at 909 ½ W. 77th Street. Defendant Cuevas
15 Sr. has other minor grandchildren and great grandchildren who reside at the Property as well.
16 Lastly, another individual, Jose Rigoberto Tamayo ("Tamayo"), lives in a makeshift structure up
17 in a tree in the Property's backyard.

18 3. The Property is known for its frequent narcotics sales: after receiving a complaint
19 about narcotics sales at the Property, the Los Angeles Police Department's ("LAPD") was able
20 to utilize an informant to make eight narcotics purchases directly on or otherwise connected to
21 the Property in just the past four months. For almost all of LAPD's informant-buys, Defendant
22 Cuevas Sr. and Tamayo were the sellers, either working together, on their own, or with other
23 individuals to sell methamphetamine from the Property. During these narcotics transactions,
24 Tamayo would frequently access Defendant Cuevas Jr.'s residence at 909 W. 77th St. after
25 making contact with the informant, likely to retrieve the narcotics. Additionally, during one such
26 narcotics transaction, Defendant Cuevas Sr. and Tamayo agreed to sell a firearm to the
27 informant.

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4. On September 12, 2018, LAPD conducted surveillance of the Property prior to executing a search warrant and observed an individual walk up to the front door of 909 W. 77th Street, conduct a hand-to-hand transaction at the door, and then depart from the Property, which was activity consistent with a narcotics transaction. When LAPD executed their search warrant at the Property, Defendant Cuevas Jr., who was inside 909 W. 77th Street, attempted to push the door shut to prevent LAPD from entering. Once inside, LAPD recovered: four baggies of methamphetamine, a scale, two bags each containing numerous small clear plastic baggies, and \$438.00 from Defendant Cuevas Jr.'s bedroom as well as another bag containing numerous small clear plastic baggies and a DVR for a surveillance system from the living room. The baggies were consistent with those used to package narcotics. Defendant Cuevas Jr. admitted to LAPD that the narcotics found in his bedroom belonged to him, but alleged he kept it for personal use only and not for sales. From 909 ½ W. 77th Street, LAPD recovered: a handgun, which was registered to another resident at the Property, as well as various caliber ammunition and various magazines to different hand guns from a backpack in the kitchen and a storage drawer in a rear bedroom. LAPD arrested, among others, Defendant Cuevas Jr. based on the items recovered from his residence, including his bedroom, as well as Defendant Cuevas Sr. for the informant-buys prior to the execution of the search warrant. LAPD also recovered live ammunition from Defendant Cuevas Sr.'s person at the time he was booked.

5. The criminal activity at the Property occurs perilously close to two schools: Loren Miller Elementary School, which is located directly across the street from the Property, and the Frederick K.C. Price III Christian Schools, which are located less than 1,000 feet away.

6. This Action is intended to bring the unacceptable state of affairs at the Property to a halt; to make the Property inhospitable to narcotics activity; and to make the Property safe for the people in the surrounding area.

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1 II. THE PARTIES AND THE PROPERTY

2 A. The Plaintiff

3 7. Plaintiff the People of the State of California is the sovereign power of the State
4 of California designated in California Health and Safety Code section 11571 and California
5 Code of Civil Procedure section 731 to be the complaining party in actions brought to abate,
6 enjoin, and penalize narcotics nuisances.

7 B. The Defendants

8 8. Defendant Maria Guadalupe Cuevas AKA Maria Guadalupe Cordero ("Defendant
9 M. Cuevas") currently is and has been the record owner of the Property since at least
10 November 30, 2006. Prior to that, she owned the Property with her husband Defendant
11 Cuevas Sr. since May 1, 1998.

12 9. Defendant Cuevas Sr., who resides in a shed at the rear of the Property, sells
13 narcotics from the Property.

14 10. Defendant Cuevas Jr., who resides at 909 W. 77th Street on the Property, stores
15 narcotics, or allows such storage, at the Property. (Defendant M. Cuevas, Defendant Cuevas
16 Sr., and Defendant Cuevas Jr. shall hereinafter be collectively referred to as "Defendants.")

17 11. The true names and capacities of defendants sued herein as Does 1 through 50,
18 inclusive, are unknown to Plaintiff, who therefore sues said defendants by such fictitious
19 names. When the true names and capacities of said defendants have been ascertained,
20 Plaintiff will seek leave of Court to amend this complaint and to insert in lieu of such fictitious
21 names the true names and capacities of said fictitiously named defendants.

22 C. The Property

23 12. The Property is located in the City of Los Angeles, County of Los Angeles, State
24 of California and its legal description is "Lot 53 in Block 5 of McCarthy Company's Florence
25 Avenue Heights as per map recorded in Book 11, page 86 of maps in the office of the county
26 recorder of said county," Assessor's Parcel Number 6020009021.

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III. THE NARCOTICS ABATEMENT LAW

13. The abatement of a nuisance is a long established and well-recognized exercise of the state's police power. (*People v. Barbieri* (1917) 33 Cal.App. 770, 775; *People ex rel. Hicks v. Sarong Gals* (1974) 42 Cal.App.3d 556, 563.) Since its enactment in 1972, the principal purpose of the NAL (Health & Saf. Code, § 11570, *et seq.*) is the abatement of buildings and places "used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance, precursor, or analog specified in this division" (Health & Saf. Code, § 11570).

14. The NAL provides that every building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance, precursor, or analog, *inter alia*, "is a nuisance which shall be enjoined, abated, and prevented . . . whether it is a public or private nuisance." (Health & Saf. Code, § 11570 (emphasis added); *People ex rel Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1389; *Lew v. Superior Court* (1993) 20 Cal.App.4th 866, 870-871.)

15. Health and Safety Code section 11571 authorizes a city attorney to bring an action to abate, prevent and perpetually enjoin such nuisances. It provides in relevant part: "Whenever there is reason to believe that a nuisance as described in Section 11570 is kept, maintained, or exists in any county, the district attorney of the county, or the city attorney of any incorporated city or of any city and county, in the name of the people, may . . . maintain an action to abate and prevent the nuisance and perpetually to enjoin the person conducting or maintaining it, and the owner, lessee, or agent of the building or place in or upon which the nuisance exists from directly or indirectly maintaining or permitting the nuisance."

16. Health and Safety Code section 11573(a) provides that: "If the existence of the nuisance is shown in the action to the satisfaction of the court or judge, either by verified complaint or affidavit, the court or judge *shall* allow a temporary restraining order or injunction to abate and prevent the continuance or recurrence of the nuisance." (Emphasis added.) In addition, Health and Safety Code section 11581 provides, as an additional remedy, for the

removal and sale of all fixtures and movable property on the premises used in aiding or abetting the nuisance and for the closure of the building for up to one year.

IV. FIRST CAUSE OF ACTION FOR NARCOTICS ABATEMENT

[Health and Safety Code Section 11570, *et seq.* --

Against All Defendants and DOES 1 through 50]

17. Plaintiff hereby incorporates by reference paragraphs 1 through 16 of this Complaint and makes them part of the First Cause of Action, as if fully set forth herein.

18. The Property has been from an exact date unknown but since at least June 2018, and is currently being used for the purposes of unlawfully selling, serving, storing, keeping, manufacturing or giving away controlled substances in violation of Health and Safety Code section 11570, *et seq.*

19. Defendants, and DOES 1 through 50, are responsible for conducting, maintaining, and/or directly or indirectly permitting the nuisance as alleged herein. Plaintiff has no plain, speedy and adequate remedy at law, and unless Defendants and DOES 1 through 50 are restrained and enjoined by order of this Court, they will continue to use, occupy and maintain, and/or to aid, abet or permit, directly or indirectly, the use, occupation and maintenance of the Property, together with the fixtures and appurtenances located therein, for the nuisance complained of herein, to the great and irreparable damage of the public and in violation of California law.

PRAYER

WHEREFORE, PLAINTIFF PRAYS THAT THIS COURT ORDER, ADJUDGE AND DECREE AS FOLLOWS:

AS TO THE FIRST CAUSE OF ACTION

1. That Defendants, DOES 1 through 50, and the Property, be declared in violation of California Health and Safety Code section 11570, *et seq.*

2. That the Property, together with the fixtures and moveable property therein and thereon, be found to constitute a public nuisance and be permanently abated as such in accordance with Section 11581 of the California Health and Safety Code.

1 3. That the Court grant a preliminary injunction, permanent injunction and order of
2 abatement in accordance with Section 11570, *et seq.* of the California Health and Safety Code,
3 enjoining and restraining each Defendant, and DOES 1 through 50, and their agents, officers,
4 employees and anyone acting on their behalf, from unlawfully selling, serving, storing, keeping,
5 manufacturing, or giving away controlled substances on the Property.

6 4. That the Court order physical and managerial improvements to the Property in
7 accordance with California Health and Safety Code section 11573.5, and such orders as are
8 otherwise appropriate, to remedy the nuisance on the Property and enhance the abatement
9 process, including but not limited to, the following: improved lighting; sufficiently secure gating
10 and fencing; screening of tenants; the removal of uninhabitable structures; and the eviction of
11 tenants and/or occupants who contribute to the public nuisance at the Property.

12 5. That as part of the Judgment, an Order of Abatement be issued, and that the
13 Property be closed for a period of one year, not to be used for any purpose, and be under the
14 control and custody of this Court for said period of time, or, in the alternative, if the Court
15 deems such closure to be unduly harmful to the community, that Defendants, and DOES 1
16 through 50, pay an amount equal to the fair market rental value of the Property for one year to
17 the City or County in whose jurisdiction the nuisance is located in accordance with Health and
18 Safety Code section 11581 subdivision (c)(1).

19 6. That each of the Defendants be assessed a civil penalty in an amount not to
20 exceed twenty-five thousand dollars (\$25,000.00).

21 7. That all fixtures and moveable property used in conducting, maintaining, aiding or
22 abetting the nuisance at the Property be removed by the LAPD and sold in the manner
23 provided for the sale of chattels under execution. Said fixtures and property shall be
24 inventoried and a list prepared and filed with this Court.

25 8. That there shall be excepted from said sale, such property to which title is
26 established in some third party not a defendant, nor agent, officer, employee or servant of any
27 defendant in this proceeding.
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1 9. That the proceeds from said sale be deposited with this Court for payment of the
2 fees and costs of sale. Such costs may occur in closing said Property and keeping it closed,
3 removal of said property, and Plaintiff's costs in the Action, including attorneys' fees, and such
4 other costs as the Court shall deem proper.

5 10. That if the proceeds of the sale do not fully discharge all such costs, fees and
6 allowances, the Property shall also be sold under execution issued upon the order of the Court
7 or judge and the proceeds of such sale shall be applied in a like manner. That any excess
8 monies remaining after payment of approved costs shall be delivered to the owner of said
9 Property. Ownership shall be established to the satisfaction of this Court.

10 11. That Defendants, DOES 1 through 50, and any agents, trustees, officers,
11 employees and anyone acting on their behalf, and their heirs and assignees, be perpetually
12 enjoined from transferring, conveying, or encumbering any portion of the Property, for
13 consideration or otherwise, without first obtaining the Court's prior approval.

14 12. That Defendants, and DOES 1 through 50, be ordered to immediately notify any
15 transferees, purchasers, commercial lessees, or other successors in interest to the subject
16 Property of the existence and application of any temporary restraining order, preliminary
17 injunction, or permanent injunction to all prospective transferees, purchasers, commercial
18 lessees, or other successors in interest, *before* entering into any agreement to sell, lease or
19 transfer the Property, for consideration or otherwise, all or any portion of the Property that is
20 the subject of this Action.

21 13. That Defendants, and DOES 1 through 50, be ordered to immediately give a
22 complete, legible copy of any temporary restraining order and preliminary and permanent
23 injunctions to all prospective transferees, purchasers, lessees, or other successors in interest
24 to the Property.

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14. That Defendants, and DOES 1 through 50, be ordered to immediately request and procure signatures from all prospective transferees, purchasers, lessees, or other successors in interest to the subject Property, which acknowledges his/her respective receipt of a complete, legible copy of any temporary restraining order, preliminary and permanent injunction, and deliver a copy of such acknowledgment to the Los Angeles City Attorney's Office, c/o Deputy City Attorney Nancy C. Hagan or her designee.

15. That Plaintiff recover the costs of this Action, including law enforcement investigative costs and any fees, including attorneys' fees, authorized by law, not to exceed \$1,000,000.00, from Defendants and DOES 1 through 50.

16. That Plaintiff recover the amount of the filing fees and the amount of the fee for the service of process or notices which would have been paid but for Government Code section 6103.5, designating it as such. The fees may, at the Court's discretion, include the amount of the fees for certifying and preparing transcripts.

17. That Plaintiff be granted such other and further relief as the Court deems just and proper.

DATED: October 18, 2018

Respectfully submitted,

Office of the Los Angeles City Attorney

By: 

NANCY C. HAGAN

Attorneys for Plaintiff, THE PEOPLE OF THE
STATE OF CALIFORNIA